IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : Crl. Revn. No.1241 of 2007
Date of Decision : October 08, 2007.

Kundan Singh .... Petitioner

Vs.

State of Haryana through GFI Gurgaon .... Respondent

CORAM : HON'BLE MR. JUSTICE L. N. MITTAL

* * *

Present : Mr.P.R.Yadav, Advocate
for the petitioner.

Mr.Ajay Ghangas, DAG, Haryana.

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L.N.MITTAL, J. (Oral) :

Petitioner Kundan Singh was convicted vide judgment dated 02.11.2006 and sentenced vide order dated 03.11.2006 of learned Chief Judicial Magistrate, Gurgaon to undergo rigorous imprisonment for six months and to pay fine of Rs.1,000/- for offence under Section 16 (1) (a) (i) of the Prevention of Food Adulteration Act, 1954 (in short - `the Act'). Appeal filed by the petitioner stands dismissed vide judgment dated 14.07.2007 of Additional Sessions Judge (Adhoc), Fast Track Court, Gurgaon. Feeling aggrieved, the petitioner has filed the instant revision petition.

At the motion stage itself, judgment of conviction stands

affirmed and notice of motion was issued only regarding quantum of sentence.

I have heard learned counsel for the petitioner and learned State counsel.

Learned counsel for the petitioner contended that sample of milk was taken on 23.09.1995 and thus, the petitioner faced agony of trial for more than 11 years and thereafter another year has also since lapsed. It is also contended that in view of the first proviso to Section 16 (1) of the Act, the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than five hundred rupees.

Learned counsel for the petitioner contends that in view of the agony of the protracted trial faced by the petitioner for more than 11 years, the sentence of the petitioner deserves to be reduced. On the other hand, learned State counsel contended that the petitioner has already been awarded only minimum sentence.

Right of speedy trial has been recognised to be right coming within the purview of Article 21 of the Constitution of India. In the instant case, the petitioner had to face the agony of trial for more than 11 years. Keeping in view the same, the petitioner deserves reduction in sentence. In this regard, learned counsel for the petitioner has relied on four judgments of this Court in the cases of ***Raghubir vs. State of Haryana (Crl. Revn. No.2100 of 2006), Mohinder Lal vs. State of Haryana*** reported as ***2002 (4) RCR (Criminal) 749, Mahavir vs. State through Govt. Food Inspector*** reported as ***2000 (4) RCR (Criminal) 208, Behari Lal vs. State of U.T., Chandigarh*** reported as ***2000 (1) RCR (Criminal) 222***. In all the aforesaid four cases, the accused had been sentenced under the Act and

their sentence was reduced to imprisonment for less than six months. However, even according to the proviso to Section 16 (1) of the Act, the sentence cannot be reduced to a sentence for less than three months.

In view of the aforesaid, the instant revision petition is disposed of by reducing the sentence of imprisonment of the petitioner from six months to three months while maintaining the sentence of fine and imprisonment in default thereof.

October 08, 2007 **(L.N.MITTAL)**
monika **JUDGE**